

NOMURA et al.  
Appl. No. 09/892,747  
Response to Office Action dated June 29, 2006

### REMARKS

Reconsideration and allowance of the subject patent application are respectfully requested.

Applicants again respectfully request that receipt of the certified copies of the two (2) priority documents be acknowledged. These documents were submitted on June 28, 2001 as evidenced by the copy of the postcard receipt attached to the response of January 11, 2005.

No amendments are made to the claims. A listing of the pending claims is provided for the Examiner's convenient reference.

Applicants' representative wishes to thank Examiner Barqadle for the courtesy extended during the interview of October 5, 2006. The substance of this interview is contained in the following remarks.

The example embodiments of subject application describe by way of illustration without limitation systems and methods that allow a program to be purchased over a network, e.g., from a server. In certain example embodiments, the operability in a user's system of a program to be purchased is confirmed on the server-side in advance, and a confirmation result is sent to the user system so as to inform the user of the confirmation result. The user system can execute the program after the program is supplied from the server to confirm its proper operation and payment for the program can be requested after confirming the proper operation.

These example embodiments allow the server (distributor) to sell a program which is known to be operable in the user system. Moreover, the example embodiments can prevent useless programs from being sold. In addition, because the user is asked to pay for the program after confirming its proper operation, program supplying services of the example embodiments can be significantly improved. On the purchaser-side, the confirmation of operability in a user's system reduces the user's anxiety regarding the purchase of a program.

Claims 1-21, 25, 26 and 28-32 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Oki et al. (U.S. Patent No. 5,859,969) in view of Takahashi et al. (U.S. Patent No. 6,195,432) and further in view of Sugimori (U.S. Patent No. 6,047,265).

Claims 1, 8, 12, 21, 22 and 25 variously recite program supply methods and systems in which a program supplied from a server is executed on a user system to thereby confirm proper

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operation of the program and in which payment for the program is requested after the confirming of proper operation.

Oki et al. discloses a remote installation system and method for enabling a user of a terminal to obtain software through a communication line. The office action acknowledges that neither Oki et al. nor Sugimoto shows "requesting payment for a program after its proper operation is confirmed." 6/29/06 Office Action, page 4. Takahashi et al. is alleged to remedy this deficiency.

Applicants disagree.

Takahashi et al. describes a software distribution system in which a user is allowed to make trial use of a free trial sample version (core software) of software, and then purchase a fee charged software portion (passive function file) for enabling the regular operation which is to be incorporated into the core software. See Takahashi et al., col. 26, lines 40-44.

As discussed at the interview and in the prior response, the core software is free and thus there is no request for payment for this core software at any time. In connection with the purchasing of the passive function file, Takahashi et al. clearly describes that a request for payment is made before downloading:

On the other hand, at a time of downloading the passive function file, the server 401 first carries out prescribed user authentication processing and charging processing with respect to a user who made the transmission request for that software, and encrypts the specified passive function file by using the shared key 461 of that user, and then downloads the encrypted passive function file to the client terminal 402. Takahashi et al., col. 20, lines 52-59 (emphasis added).

As further discussed at the interview, the use of the core software in Takahashi et al. does not permit the user to confirm operation of the passive function file (i.e., the fee charge software portion) before payment is requested. Column 14, lines 46-49 of Takahashi et al. describes:

For example, the core software can be a word-processor without a printing function and a communication function, and the printing function and the communication function are to be sold as separate charged softwares.

Takahashi et al. contains no disclosure or suggestion that the printing and communication functions are executed to confirm their proper operation before payment for these functions is

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requested. As noted above, Takahashi et al. describes that payment for such functions is requested before downloading.

In short, Takahashi et al. describes core software that is free and additional functions for the core software that can be purchased. Takahashi et al. allows trial usage of the free core software and, if the user is satisfied with the trial use, Takahashi et al. enables the user to purchase additional functions for which a charge is incurred. Takahashi et al. does not anywhere disclose or suggest that the user is able to confirm operation of the additional functions prior to a request for payment for these additional functions.

Because neither Oki et al., Sugimori, nor Takahashi et al. discloses or suggests the concept of requesting payment for a program after executing the program on the user system to confirm its proper operation, the proposed combination of these documents is likewise deficient in this regard. Consequently, claims 1, 8, 12, 21, 22 and 25 patentably distinguish over the proposed combination of these documents.

Independent claims 25 and 31 call for executing a program to confirm its proper operation and transmitting (or sending) a notification regarding the confirmation of operation to a server. As acknowledged in the instant office action, Oki et al. fails to disclose "transmitting a notification of operation confirmation to a server." See 6/29/06 Office Action, page 3. Sugimori is alleged in the office action to remedy this deficiency.

Applicants disagree.

Sugimori describes a client 4 as a gift-receiver that receives a decoding key from a server system 2 after the client 4 receives encoded gift contents. Sugimori at col. 14, line 45 et seq. describes:

When the operations for decoding and accumulation of the contents are finished in step C25, determination is made as to whether the operation for decoding the contents has successfully been completed or not (step C27). When it is determined that the operation for decoding has successfully been made (step C27), the client 4 sends a report on completion of the decoding to the server system 2 (step C28).

Thus, Sugimori discloses notifying a server when contents are successfully decoded, but there is no disclosure of sending a notification to a server after certain contents have been executed. Presumably, the contents would be executed at some point in the Sugimori system, but

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there is no disclosure or suggestion in Sugimori of sending any notification as a result of such executing.

Consequently, claims 25 and 31 are believed to patentably distinguish over the proposed combination of Oki et al., Sugimori and Takahashi et al.

Claims 2-7, 26 and 28 depend from claim 1; claims 9-11 depend from claim 8; claims 13-20 and 29 depend from claim 12; claim 30 depends from claim 21; and claim 32 depends from claim 31. These claims patentably distinguish over Oki et al., Sugimori and Takahashi et al. because of these dependencies and because of the additional patentable features contained therein.

Claims 23, 24 and 27 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Oki et al. in view of Sugimori.

Independent claims 23 and 24 each calls for executing a received program and transmitting a notification of operation confirmation to a server so as to allow the server to confirm the proper operation state of the program. As noted on page 11 of the 6/29/06 office action, Oki et al. does not show transmitting a notification of operation confirmation to a server. Sugimori is alleged to remedy this deficiency.

Applicants disagree.

As noted above, Sugimori discloses notifying a server when contents are successfully decoded, but there is no disclosure therein of sending a notification to a server after certain contents have been executed. Presumably, the contents would be executed at some point in the Sugimoto system, but there is no disclosure or suggestion in Sugimoto of sending any notification as a result of such executing.

Consequently, even assuming for the sake of argument that Oki et al. and Sugimori were shown to be properly combinable, the combination would nonetheless be deficient with respect to the claimed transmitting of a notification of operation confirmation to a server. Applicants respectfully submit that the proposed combination of Oki et al. and Sugimori would not have made obvious the method and apparatus of claims 23 and 24, respectively.


Claim 27 depends from claim 23 and is believed to distinguish from the proposed combination of Oki et al. and Sugimori at least because of this dependency.

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The pending claims are believed to be allowable and favorable office action is respectfully requested.

Respectfully submitted,

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